



**UPDATE ON SUPREME COURT'S JUDGMENT CONCERNING RERA
AS NOT A BARRIER TO REMEDY UNDER THAT CAN BE AVAILED
UNDER THE CONSUMER PROTECTION ACT**

The Hon'ble Supreme Court of India, on 02 November 2020, delivered a landmark judgment in *M/s Imperial Structures Ltd. v. Anil Patni and anr* (Civil Appeal No. 3582-3590 of 2020). The judgment of the Apex Court which has far-reaching implications, held that Real Estate (Regulations and Development) Act, 2016 does not preclude the application and reliefs provided under the National Consumer Disputes Redressal Commission (NCDRC) or the Consumer Forum from entertaining any complaint under the Consumer Protection Act, 1986.

BACKGROUND

- A Housing Scheme called "The ESFERA", Gurgaon, Haryana (**'the Project'**) was launched by the Appellant sometime in 2011 and all the original Complainants booked their respective apartments by paying the booking amounts and thereafter each of them executed Builder Buyer Agreement (**"the Agreement"**) with the Appellant.
- The Respondents (**"the purchasers"**) preferred to initiate proceedings before the Commission for the delay of four years in handing over the possession to respective purchasers within the time stipulated in the agreement.

- The Appellants herein challenged the jurisdiction on the grounds that: -
 - a. the Respondents (the purchasers) are not consumer within the ambit of the Consumer Protection Act, 1986.
 - b. the Respondents (the purchasers) should exhaust relief provided under the Real Estate (Regulation and Development) Act, 2016 (“**RERA**”) since the project has been registered under the RERA Act.

The contentions of the Appellants were rejected, and relief by the way of refund of the amount deposited with interest from was granted in favour of the Respondents.

- The Appellants herein preferred this appeal dissatisfied with the judgment of the Commission.

HIGHLIGHTS OF THE JUDGMENT DATED 02 NOVEMBER 2020 IN M/S IMPERIAL STRUCTURES LTD. V. ANIL PATNI AND ANR.

- The Supreme Court rejected the contentions of the Appellants herein referring to Section 18 of the RERA Act since it gives a right ‘without prejudice to any other remedy available’, in effect, such other remedy taken recourse to by the affected party (the Respondents).
- The Supreme Court relying on decision ***in Pioneer Urban Land and Infrastructure Limited and another vs. Union of India and another***, where a bench of three Judges of Court held that the

allotees of flats/apartments are entitled to concurrent remedies under the RERA Act and Consumer Protection Act, 1986.

Disclaimer This update note is for private circulation only and not for commercial re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/or publication of this update note for any non-academic and non-informational purposes are strictly prohibited. This update note is not intended to be an advertisement or solicitation. The contents of this update note are solely meant for informational purposes only and is not a substitute for professional advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this update note or prior to taking any decision based on the information contained in this update note. Sanctum Law disclaims all the responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on information contained in this update note, which may be inadvertently incorrect.

Copyright © Sanctum Law. All rights reserved. Replications or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of Sanctum Law. Any queries may be addressed to contact@sanctumlaw.com